

Purpose

To establish the policy and procedures and to place responsibility for the disclosure and processing of the following coming under the Administrative Rulemaking Act:

- 1) “Procedural Rules” (UDOT 05-1.1)
- 2) “Administrative Rules” (UDOT 05-1.2)
- 3) “External Policies” (UDOT 05-1.3)
- 4) “Emergency Rules” (UDOT 05-1.4)

Policy

The Transportation Commission adopts all rules as defined by the Utah Administrative Rulemaking Act (ACT) in accordance with the provisions of the Act. Procedural rules will be adopted defining the classes of administrative actions and the procedures to be followed in effecting each class of action. Determine the type of rule based on the above stated purpose, the below background, definitions, procedures, and the Act.

Background

The Utah Administrative Rulemaking Act governs the promulgation of rules affecting the rights, privileges, and statutory entitlements of citizens. The Act sets forth the manner in which the Utah Department of Transportation may adopt actions defined as “rules” by the Act. Also provided in the Act is a number of alternative procedures for the adoption of the various actions taken by the Commission.

The policies and procedures regarding rulemaking have been created to provide uniform standards for making rules which carry out the statutory mandates of the Legislature and to provide the opportunity for public awareness of, and participation in administrative rule making.

Definitions

Procedural Rules

Statements defining actions and establishing procedures to be followed under the Utah Administrative Rulemaking Act.

Administrative Rules

Statements prescribing, permitting, or regulating conduct or action of employees of the Department or the public in connection with activities of the Department on matters within the regulatory powers granted to the Commission by law.

External Policies

Statements of general applicability expressing intent and establishing guidelines for conducting the activities of the Transportation Commission or the Utah Department of Transportation and the affecting private rights or procedures available to the public.

Emergency Rules

A federal or statutory deadline, an imminent budget change with the new fiscal year, a natural disaster, or some other emergency situation beyond the control of the agency will require immediate implementation of a rule or rule change.

For use in cases where a statement of finding is required to express unforeseen circumstances to protect the public from immediate peril, health, or welfare concerns, and/or threatened damage to highways or bridges.

Nonsubstantive Changes

Minor changes in wording or grammar that do not affect the application or results of agency actions and therefore do not require the complete rulemaking procedure.

Procedures

Adoption or Amendment of “Procedural Rules” Coming Under the Utah Administrative Rulemaking Act

UDOT 05-1.1

Responsibility: Quality Improvement Council Member

Actions

1. Determines the need for adoption or amendment of procedural rules coming under the Utah Administrative Rulemaking Act.
2. Reviews and appraises existing and recommended procedural rules to ensure that such rules are clearly understood by all interested citizens.
3. Prepares draft of the proposed procedural rules.
4. Obtains the advise of the Attorney General by submitting a copy of the draft to the Attorney General by memorandum.

Responsibility: Attorney General

5. Reviews the draft and makes recommendations in writing to the originator.

Responsibility: Quality Improvement Council Member

6. Prepares notice of proposed rulemaking on standard form titled “Notice of Rulemaking, Exhibit A.”

Include in the notice a statement of either the terms or substance of the intended action or a description of the subject and issues involved, the reasons for the proposed procedural rules, and the time when, the place where, and the manner in which interested persons may present their views regarding the proposed procedural rules.

7. Sends the notice and the proposed procedural rules to the Director of Administrative Services, in duplicate, by memorandum.

Responsibility: Director of Administrative Services

8. Processes the notice and proposed rules through the Quality Improvement Council for approval by the Commission.

9. Forwards the approved documents to the State Archivist by the 5th or the 20th day of the month for publication in the Utah Administrative Rulemaking Bulletin on the 15th, or the 1st of the following month.

Responsibility: Quality Improvement Council

10. Mails copy of the notice of rulemaking to all persons who have made a timely request of the Department for advance notice of its rulemaking proceedings.

Responsibility: Commission

11. Takes no further action on the proposed rules until at least 20 days have elapsed following the mailing and publication in the Bulletin of the last notice of rulemaking.
12. Affords all interested persons reasonable opportunity to participate in rulemaking by submitting data, views, or arguments in writing.

In the case of substantive rules an opportunity for oral hearing will be granted if requested by 25 individuals, by a governmental subdivision or an agency, or by an association having not less than 25 members (if requests are made in writing within 15 days after the mailing and publication of the notice of rulemaking).

13. Adopts the final draft of the rules after the 20 day waiting period. (The adopted rules become effective 20 days after filing with State Archivist or on the date specified in the rules).

Responsibility: Director of Administrative Services

14. Files a certified copy of the rules with the State Archivist within 10 days after adoption.
15. Upon adoption of procedural rules, if requested to do so by an interested person either prior to adoption or within 30 days thereafter, will issue a concise written statement of the principal reasons for and against the rules' adoption, incorporating in this statement the Department's reasons for overruling the considerations urged against the rules' adoption. (This statement will be prepared by the Quality Improvement Council member having drafted the "Procedural Rule.")

**Adoption, Amendment, or Repeal of “Administrative Rules” Coming
Under the Utah Administrative Rulemaking Act****UDOT 05-1.2****Responsibility:** Quality Improvement Council, Commission or Individual**Actions**

1. Initiates proposed policy action:
 - (a) **Commission** - by its own motion.
 - (b) **Quality Improvement Council Member** - by submitting proposed administrative rule to the Quality Improvement Council for approval.
 - (c) **Individual** - by submitting a petition.

Responsibility: Quality Improvement Council Member

2. Prepares draft of the proposed rules.
3. Obtains the advice of the Attorney General by submitting a draft of the proposed rules.

Responsibility: Attorney General

4. Reviews the proposed rules for clarity and format, and makes recommendations in writing to the originator.

Responsibility: Quality Improvement Council Member

5. Prepares notice of proposed rulemaking on standard form titled “Notice of Rulemaking, Exhibit A.”

Include in the notice a statement of either the terms or substance of the intended action or a description of the subject and issues involved, the reasons for the proposed rules, and the time when, the place where, and the manner in which interested persons may present their views regarding the proposed rules.

6. Sends the notice and the proposed rules to the Director of Administrative Services, in duplicate, by memorandum.

Responsibility: Director of Administrative Services

7. Processes the notice and proposed rules through the Quality Improvement Council for approval by the Commission.

8. Forwards the approved documents to the State Archivist by the 5th or the 20th day of the month for publication in the Utah Administrative Rulemaking Bulletin on the 15th, or the 1st of the following month.

Responsibility: Quality Improvement Council

9. Mails copy of the notice of rulemaking to all persons who have made a timely request of the Department for advance notice of the Department's rulemaking proceedings.

Responsibility: Commission

10. Takes no further action on the proposed rules until at least 20 days have elapsed following the mailing and publication in the Bulletin of the last notice of rulemaking.
11. Affords all interested persons reasonable opportunity to participate in rulemaking by submitting data, views, or arguments in writing.

In the case of substantive rules an opportunity for oral hearing will be granted if requested by 25 individuals, by a governmental subdivision or an agency, or by an association having not less than 25 members (if requests are made in writing within 15 days after the mailing and publication of the notice of rulemaking).

12. Adopts the final draft of the rules after the 20 day waiting period. (The rules becomes effective 20 days after filing with State Archivist or on the date specified in the rule).

Responsibility: Director of Administrative Services

13. Files a certified copy of the rules with the State Archivist within 10 days after adoption.

Responsibility: Commission

14. Upon adoption of rules, if requested to do so by an interested person either prior to adoption or within 30 days thereafter, will issue a concise written statement of the principal reasons for and against the rules adoption, incorporating in this statement the Commission's reasons for overruling the considerations urged against the rules adoption. (This statement will be prepared by the Quality Improvement Council member having drafted the "External Policy.")

**Adoption, Amendment, or Repeal of “External Policies” Coming Under the
Utah Administrative Rulemaking Act**

UDOT 05-1.3

Responsibility: Quality Improvement Council Member, Commission or Individual

Actions

1. Initiates proposed policy action:
 - (a) **Commission** - by its own motion.
 - (b) **Quality Improvement Council Member** - by submitting proposed policy to the Quality Improvement Council for approval.
 - (c) **Individual** - by submitting a petition.

Responsibility: Quality Improvement Council Member

2. Prepares draft of the proposed policy.
3. Obtains the advice of the Attorney General by submitting a draft of the proposed policy.

Responsibility: Attorney General

4. Reviews the proposed policy for clarity and format, and makes recommendations in writing to the originator.

Responsibility: Quality Improvement Council Member

5. Prepares notice of proposed rulemaking.
6. Sends the notice and the proposed policy to the Director of Administrative Services, in duplicate by memorandum.

Responsibility: Director of Administrative Services

7. Processes the notice and proposed policy through the Quality Improvement Council for approval by the Commission.
8. Forwards the approved documents to the State Archivist by the 5th or the 20th day of the month for publication in the Utah Administrative Rulemaking Bulletin on the 15th, or the 1st of the following month.

Responsibility: Quality Improvement Council

9. Mails copy of the notice of rulemaking to all persons who have made timely request of the Department for advance notice of the Department's rulemaking proceedings.

Responsibility: Commission

10. Takes no further action on the proposed policy until at least 20 days have elapsed following the mailing and publication in the Bulletin of the last notice of rulemaking.
11. Affords all interested persons reasonable opportunity to participate in rulemaking by submitting data, views, or arguments in writing.

In the case of substantive policies an opportunity for oral hearing will be granted if requested by 25 individuals, by a governmental subdivision or an agency, or by an association having not less than 25 members (if requests are made in writing within 15 days after the mailing and publication of the notice of rulemaking).

12. Adopts the final draft of the policy after the 20 day waiting period. (The policy becomes effective 20 days after filing with State Archivist or on the date specified in the policy).

Responsibility: Director of Administrative Services

13. Files a certified copy of the policy with the State Archivist within 10 days after adoption.

Responsibility: Commission

14. Upon adoption of a policy, if requested to do so by an interested person either prior to adoption or within 30 days thereafter, will issue a concise written statement of the principal reasons for and against the policies adoption, incorporating in this statement the Department's reasons for overruling the considerations urged against the policies adoption. (This statement will be prepared by the Quality Improvement Council member having drafted the "External Policy.")

Emergency Rules**UDOT 05-1.4**

Responsibility: Quality Improvement Council

Actions

1. Determines the need for emergency action and prepares a draft of the emergency rule.
2. States clearly in writing the circumstances and justification for such a finding.
3. Submits the proposed emergency rule and the accompanying statement to the Director of Transportation.

Responsibility: Executive/Deputy Director

4. If the Director concurs in the finding, he may proceed without prior notice of hearing, or upon any abbreviated notice and hearing that he finds practicable, to adopt and implement the emergency rule.

Responsibility: Director of Administrative Services

5. Files the emergency rule and an accompanying statement with the State Archivist. (An emergency rule becomes effective immediately upon filing with the State Archivist, or at a stated date if less than 20 days later). The emergency rule may be effective for a period not longer than 120 days, but the adoption of an identical rule under the normal procedure is not precluded.

Responsibility: Executive/Deputy Director

6. Advises the Commission of this action.

Responsibility: Transportation Commission

7. Concurs in the emergency rule or withdraws it.
8. Takes appropriate measure to make the emergency rule known to the persons who may be affected by it.